HON'BLE THE CHIEF JUSTICE SRI G.S. SINGHVI
AND
HON'BLE SRI JUSTICE G. CHANDRAIAH

Writ Appeal Nos.813 and 1134 of 2006

Writ Appeal No.813 of 2006

Between:

J. Srinivas Reddy and another

... Appellants

And

Joint Collector, Ranga Reddy District
at Hyderabad and others

... Respondents

Writ Appeal No.1134 of 2006

Between:

Aziz Mirza and others

... Appellants

And

District Collector, Ranga Reddy District
at Hyderabad and others

... Respondents

::JUDGMENT::

Counsel for the appellants
In W.A.No.813 of 2006: Sri P. Pankaj Reddy

Counsel for respondent Nos.1
to 3 in W.A.No.813 of 2006: Government Pleader for Revenue

Counsel for respondent Nos.4
to 6 in W.A.No.813 of 2006: None

Counsel for respondent No.7
in W.A.No.813 of 2006: Sri Syed Shareef Ahmed

Counsel for the appellant in W.A.No.1134 of 2006: Sri Syed Shareef Ahmed

Counsel for respondent Nos.1 and 2 in W.A.No.1134 of 2006: Government Pleader for Revenue

Counsel for respondent Nos.3 to 5 in W.A.No.1134 of 2006: None.

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December 18, 2006

Per G.S. Singhvi, CJ

In these appeals, the appellants have questioned the correctness of the order of the learned Single Judge who dismissed three writ petitions, two of which were filed by the appellants for quashing order dated 5-6-2004 passed by Joint Collector, Ranga Reddy District (respondent No.1) in Writ Appeal No.813 of 2006.

The Facts:

Sri Kista Reddy, grandfather of appellants J.Srinivas Reddy and J. Kista Reddy, was the owner of land measuring Ac.57-12 gts. comprised in Survey No.13 of Dasaripalli Village (earlier known as Ibrahimpatnam Taluq of Hyderabad District), Kandukuru Mandal, Ranga Reddy District. Sri Kista Reddy died in 1954. Thereafter, the land is said to have been recorded in the names of his sons Jambula Venkat Reddy (father of appellant No.1 - J. Srinivas Reddy in W.A.No.813 of 2006) and Jambula Narsimha Reddy (father of appellant No.2 – J. Kista Reddy in W.A.No.813 of 2006). Shri J. Venkat Reddy

and J. Narsimha Reddy died on 29-1-1985 and 5-6-1992 respectively. During their lifetime, they relinquished their right over

the land comprised in Survey No.13 by submitting unconditional Rajinama dated 5-6-1965 in writing to Tahsildar, Ibrahimpatnam. The latter accepted the same on

23-7-1965 and directed the patwari to make the land as 'kharij khata' and implement the same in the next jamabandi. In the Faisal Patti for the year 1966-67, the land was shown as Ain Kammi. However, the names of original pattadars continued to be shown in the pahanis of the subsequent years. After coming into force of the Andhra Pradesh Land Reforms (Ceiling on Agricultural Holdings) Act, 1973 (for short, 'the 1973 Act'), Shri J. Venkat Reddy and J. Narsimha Reddy filed declarations under Section 8 relinquishing their rights in respect of the disputed land. This was recorded in the proceedings dated 15-2-1977 of the Land Reforms Tribunal, the relevant extracts of which are reproduced below:

> " The ancestor of these two brothers was one Kista Reddy, who died in the year 1954. One year before his death a registered partition deed was effected in 19523 by which the entire property was divided among the sons of Kista Reddy. Accordingly, Narsimha Reddy and Venkat Reddy got 291.04 and 291.04 respectively. But according to the present khata they are holding lands as follows:
>
> Sri.J.Narsimha Reddy
>
> Khata of Narsimha Reddy 119.31=1.9698 Dasarappli only
>
> Ranga Reddy (son) 152.89 = 2.6938 - do – Kalvakurti
>
> Venkatram Reddy(son) 93.91 = 1.6414 - do – Only
>
> **366.11 6.3250**
>
> This is agreed to by the verifying officer also as declared in his verification report. However, the counsel for the declarant argued that S.No.13 measuring 57.12 guntas of

> Dasarapalli is Karijkhata land and through Tahsildar Lr.No.B4/2762/65, the patwari was directed in the year 1965 to delete this number from the Khata of both the declarants. Evidence was placed before on that both of these branches are no more in their possession and since 1964 land revenue is not being collected. This being government land it cannot be computed against the holding of these declarants. Accordingly, order the deletion of ½ share out of 57.12 guntas from each of these two branches."

By taking advantage of the failure of the revenue authorities to carry out necessary corrections in the revenue records and enter the land in question as 'kharij khata' , Venkat Reddy and Narsimha Reddy sold the land to Syed Ahmed Ali, Mohd. Jawed Siddique and Mohd. Amjad Ali by an unregistered sale-deed dated 10-4-1974. Another unregistered sale-deed of the same date is said to have been executed in favour of Aziz Mirza and Khaja Husnuddin. Both the purchasers filed applications under Section 5A of the Andhra Pradesh Rights in Land and Pattedar Pass Books Act, 1971 (for short, 'the 1971 Act') for regularization of alienation covered by unregistered documents dated 10-4-1974. Mandal Revenue Officer, Kandukur Mandal accepted the application of Syed Ahmed Ali and two others and issued validation certificate in their favour on 28-12-1993 in Form-13B. Similar certificate was issued in favour of Aziz Mirza on 2-2-2002.

On coming to know of the second order of the Mandal Revenue Officer, Syed Ahmed Ali and two others filed an appeal before Revenue Divisional Officer, Ranga Reddy (East Division) under Section 5B of the 1971 Act. The latter allowed the appeal and set aside order dated 2-2-2002 passed by the Mandal Revenue Officer in File No.B/598/5. He held that after validating the unregistered sale-deed executed in favour of Syed Ahmed Ali and two others, the

Mandal Revenue Officer could not have validated the sale made in favour of Aziz Mirza.

Aggrieved by order dated 18-8-2003 passed by the Revenue Divisional Officer, Aziz Mirza filed revision under Section 9 of the 1971 Act. The Joint Collector not only approved the order of the Revenue Divisional Officer, but also quashed order dated 28-12-1993 passed in favour of Syed Ahmed Ali and two others. The reasons assigned by the Joint Collector for adopting this course are discernible from the following extracts of order dated 5-6-2004:

> "But, as per the report of the Mandal revenue Officer, Kandukur Mandal, dated 21-05-2004, and the Xerox copy of the file bearing No. B/2762/1965 and faisal Patti for the year 1966-67 the land in Sy.No. 13, extent 57-12 acres situated Dasarlapally village has been relinquished by the original pattadars U/r. 16 of A.P. (T.A.) Land Revenue Rules, 1951, and the Tahsildar, Ibrahimpatan accepted the same and directed the Patwari on 23-07-1965 to make the said land as Kharij Khata and implement the same in the next Jamabandi. Accordingly, the same was approved in the Faisal Patti for the year, 1966-67 as Aian Kammi. But surprisingly the name of the original pattadars continued surreptitiously by the then Patwari in the subsequent years Pahanies despite approval of the said land as Kharij Khata. More over the relinquishment of rights in respect of the land in question is corroborated as per the Affidavit filed by Sri J. Narsimha Reddy, s/o: J.Kista Reddy in C.C.No.1917/l/75 and Sri J. Ranga Reddy, s/o: J.Narsimha Reddy in C.C.No.1907/l/75 before the Land Reforms Tribunal, Hyderabad South and the same has been reflected in the proceedings of the Land Reforms Tribunal, dated 15-02-1977 in the ceiling declaration filed by Sri Jambula Venkat Reddy & Others which is as below:-
>
> "However the counsel for the declarant argued that Sy.No.13 measuring 57-12 acres of Dasarlapally is

Kharij Khata land and through Tahsildar Lr. No. B/2762/65, the Patwari was directed in the year, 1965, to delete this number from the Khata of both the declarants. Evidence was placed before me that both of these branches are no more in their possession and since 1964 land revenue is not being collected. This being government land and it cannot be computed against the holding of these declarants. Accordingly, I order the deletion of ½ share out of 57-12 acres from each of these two branches".

In view of the above facts it has been established that the land in Sy.No.13, extent 57-12 acres in Dasarlapally Village of erstwhile Ibrahimpatan Taluq was relinquished by the registered holder by submitting unconditional Razinama in writing to the Tahsildar, Ibrahimpatan on 5-6-1965 and the same has been accepted by the Tahsildar, Ibrahimpatan and the Patwari of Dasarlapally village was directed to make the said land as Kharij Khata and accordingly, the same was approved in the Faisal Patti for the year 1966-67. But, unfortunately and surreptitiously was not carried out in the Pahani for the subsequent year i.e., 1967-68 onwards in pursuance of the Faisal Patti for the year 1966-67. However, due to the mistake of the revenue officials at village level and also Taluq/Mandal level the landing question was not recorded as Kharij Khata and the names of the pattadars continue to appear in the Revenue Records replying upon which the respondents entered into sale deeds and got validated their unregistered sale ded which also was an error by the revenue officials. In any way the land in question which has been made Kharij Khata and has become Government Land cannot be allowed for validation u/s 5-A of the Act. Since the A.P. (T.A.) Record of Rights in Land Regulation 1358-Fasli (Regulation No.I, VIII of 1358-F) and all standing orders and other provisions of law relating to the Record of Rights of land as in force in the State have been repealed by Section 13 of the Andhra Pradesh Rights in Land and Pattadar Pass Books Act, 1971. In view of the powers vested with me U/s. 9 of the Andhra Pradesh Rights in Land and Pattadar Pass

Books Act, 1971, having called for and examined the record relating to land bearing Sy.No.13, extent 57-12 acres situated a t Dasarlapally village of Kandukur Mandal, prepared and maintained in respect of the said land, I do not satisfy as to the regularity, correctness, legality and propriety of the orders passed by the Mandal Revenue Officer, Kandukur Mandal, dated 28-12-1993, in File No. B/2123/1991 and orders in File No.B/598/1995, dated 02—02-2002 and also the orders of the Revenue Divisional Officer R.R. East Division, dated 18-08-2003 in file NO. A2/862/2003 are hereby quashed. The Mandal Revenue Officer, Kandukur Mandal, is directed to correct the entry in respect of Sy.No.13, extent 57-12 acres of Dasarlapally village as Kharij Khata in the Pattadar column and Government in possession column in the Pahanies for the years 1967-68 onwards. The respondent if so advised may approach the competent authority to get regularization of the Government Land if they desired so. Accordingly, the revision is disposed of."

Syed Ahmed Ali and two others challenged order dated 5-6-2004 in Writ Petition No.9700 of 2004. Aziz Mirza filed Writ Petition No.12077 of 2004 for issue of a mandamus to the respondents to give effect to order dated 5-6-2004 passed by the Joint Collector. Later on, he filed WPMP No.23080 of 2005 for impleadment of Syed Ahmed Ali and two others as party respondents. The same was allowed by the learned Single Judge on 15-11-2005. Aziz Mirza also filed WPMP No.5623 of 2006 for quashing order dated 5-6-2004. That application was allowed by the learned Single Judge despite the fact that the relief sought by way of amendment was contrary to the relief claimed in the main petition.

J . Srinivas Reddy and J. Kista Reddy filed Writ Petition No.16576 of 2004 for quashing order dated 5-6-2004. In the affidavit filed by him in support of Writ Petition No.16576 of 2004, J. Srinivas Reddy averred that he and his brother had filed Writ Petition No.5413

of 2004 questioning the legality of orders dated 28-12-1993 and 2-2-2002 passed by the Mandal Revenue Officer in favour of Syed Ahmed Ali and two others and Aziz Mirza respectively. According to them, they had not sold to either of the parties and, therefore, there was no question of validating the sale transactions under Section 5A of the 1971 Act. He further pleaded that order dated 5-6-2004 is liable to be quashed because the appellants were not impleaded as parties to the revision preferred by Aziz Mirza. They also questioned the finding recorded by the Joint Collector that the land had been relinquished by their fathers in 1965.

The learned Single Judge dismissed all the writ petitions. He took cognizance of order dated 15-2-1977 passed by the Land Reforms Tribunal and held that once the disputed land had been excluded from the holding of J.Venkat Reddy and J. Narsimha Reddy (fathers of appellants 1 and 2 respectively in W.A.No.813 of 2006), there was no occasion for them to execute unregistered sale-deeds dated 10-4-1974. He further held that the plea of denial of natural justice raised by J. Srinivas Reddy and J. Kista Reddy is liable to be rejected because no prejudice is shown to have been caused to them by order dated 5-6-2004. The learned Single Judge observed that once the land in question is treated as 'kharij khata', the orders passed by the Mandal Revenue Officer validating the alienation made in favour of Syed Ahmed Ali and two others and Aziz Mirza respectively were per se illegal and the Joint Collector did not commit any error by setting aside the same.

Sri P. Pankaj Reddy, learned counsel for the appellants in Writ Appeal No.813 of 2006 reiterated the argument that the finding recorded by the Joint Collector about relinquishment of land in dispute by the fathers of his clients is liable to be quashed because

they were not parties to the revision instituted by Aziz Mirza against order dated 18-8-2003 passed by the Revenue Divisional Officer. Learned counsel emphasized that before recording any finding adverse to the rights of his clients, the Joint Collector was duty bound to give them action oriented notice and opportunity of hearing, but the officer concerned flagrantly violated this requirement.

Shri Syed Shareef Ahmed, learned counsel for the appellants in Writ Appeal No.1134 of 2006 argued that the Mandal Revenue Officer did not commit any illegality by validating the sale transaction dated 10-4-1974 and the Revenue Divisional Officer was not at all justified in setting aside the same at the instance of Syed Ahmed Ali and two others.

In the context of the submissions made by him, we enquired from Sri P. Pankaj Reddy whether or not the fathers of his clients had filed declaration under the 1973 Act before the Land Reforms Tribunal and surrendered the land in question and whether or not the Tribunal had vide order dated 15-2-1977 deleted half share out of Ac.57-12 gts. from the holding of their fathers. To this, the learned counsel could not give any reply.

In view of the above, we have no hesitation to record our complete agreement with the learned Single Judge that the Joint Collector did not commit any illegality by nullifying the orders of the Mandal Revenue Officer validating the sale transactions. In our considered view, after having filed declaration under the 1973 Act for surrender of the land in dispute on the premise that their father had relinquished the same in 1965, late J.Venkat Reddy and J. Narsimha Reddy could not have executed unregistered sale-deeds dated 10-4-1974 in favour of Syed Ahmed Ali and two others and Aziz Mirza respectively. Those transactions were null and void and the Mandal

Revenue Officer gravely erred by validating the same ignoring the fact that the land had already been declared as 'kharij khata'.

The argument of Shri P. Pankaj Reddy that the order of the Joint Collector should be quashed on the ground of violation of the rules of natural justice is being mentioned only to be rejected. In our opinion, even if the Joint Collector had issued notice, no useful purpose would have been served because it is neither the pleaded case of the appellants nor any material has been produced before the Court to show that their fathers had not filed declaration under the 1973 Act and the Land Reforms Tribunal has not passed order dated 15-2-1977 accepting those declarations.

No other point has been argued.

In the result, the appeals are dismissed.

As a sequel to dismissal of the appeals, WAMP.Nos.1672 and 2367 of 2006 in Writ Appeal No.813 of 2006 are also dismissed.

G.S. SINGHVI, CJ

G. CHANDRAIAH, J

December 18, 2006

svs